BOARD OF COMMUNITY HEALTH
June 9, 2005

The Board of Community Health held its regularly scheduled meeting in the Floyd Room, 20th Floor, West Tower, Twin Towers Building, 200 Piedmont Avenue, Atlanta, Georgia. Board members attending were Jeff Anderson, Chairman; Richard Holmes, Vice Chairman; Chris Stroud, M.D. (Secretary); Inman English, M.D.; Mary Covington; Ross Mason; Kim Gay, and Mark Oshnock. Commissioner Tim Burgess was also present. (A List of Attendees and Agenda are attached hereto and made official parts of these Minutes as Attachments # 1 and # 2).

Mr. Anderson called the meeting to order at 12:02 p.m. The Minutes of the May 12 meeting were UNANIMOUSLY APPROVED AND ADOPTED.

Mr. Anderson began his opening comments by discussing the concept paper the Governor presented to the Department of Health and Human Resources that talks about the macroeconomics of healthcare for the next 10-20 years. He said the Governor's Office, Department of Community Health and the Commission on the Efficacy of the Certificate of Need Program will be reaching out to all constituencies to have a stake in policy discussions and the macroeconomic discussions in the future

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Mr. Anderson asked Commissioner Burgess to make his report. Commissioner Burgess reported on the following: 1. Procurements: a. Disease Management – The procurement has now closed and bids were received from five vendors. The Department hopes to make a choice before the end of the month, get a contract signed and have the company up and operational as early as September, but no later than October 1; b. Enrollment Broker – the procurement has now closed. Four bids were received for the enrollment broker and they are now under evaluation; c. Pharmacy Benefit Manager – one or more protests have been received so the process has been delayed. The current closing date for that procurement is June 17; 2. Budget – The Governor's budget director met with agency heads to discuss the budget expectations and instructions and how to begin to prepare for a budget submission to the Governor in September. The Governor's budget staff informed agencies to submit a budget for FY 06 with the expectation that no additional requests for funding in FY 06 would be allowed. For FY 07, agencies will need to consider three levels; a. the possibility for a budget that redirects current funding into other priority areas; b. submitting a budget that represents a 2% cut from the appropriated level given in FY 06. The funding that would be necessary to maintain Medicaid into the new fiscal year because of the growth in eligibility, enrollment, inflation and other factors will not be set aside and will have to be considered as part of the base budget presentation to OPB. A 2% budget level without an exemption for that growth may represent about a $220 million reduction in state funds; and c. The Governor's office said agencies would be allowed to request up to a 4% enhancement level but because of the requirement to count the growth in Medicaid in the base, current estimates would represent a $93 million or more cut in state funds or 40% of the total expenditure. 3. Surcharges - will become effective July 1 in the State Health Benefit Plan. The Department was informed by CMS that it would probably define tobacco use as a health status and therefore subject to those provisions in the HIPAA law. But the HIPAA law allows self-funded plans, such as the SHPB, to opt out of those provisions. The Department is notifying SHBP members that the SHBP is opting out of that provision of the HIPAA law that will allow the Department to proceed forward with the surcharge beginning July 1. An UPDATER will go out in a few days to the membership to notify the members of this action; 4. Erectile Dysfunction (E.D.) Drugs – The Department made a quick decision to stop the use of ED drugs for sex offenders in Georgia and immediately set in place procedures with the Pharmacy Benefit Manager to prevent the dispensing of these drugs to sex offenders. The Department presented some information to the Governor right after those news accounts and also gave the Governor copies of the memorandums that the Department has used since at least 1998 to allow the dispensing of these drugs for other medical necessity reasons as prescribed by physicians. 5. ICTF distribution – the State Auditor has completed the financial reviews of the self reported data and DCH staff is compiling the final numbers with the intent to make the final distributions from that fund before the close of the fiscal year. Commissioner Burgess said he hopes to report to the Board in July the conclusion of the distributions for FY 05 and discuss plans for methodology for FY 06.

Mr. Anderson moved on to Committee Reports and called on Mark Oshnock, Chairman of the Audit Committee, to give his report. Mr. Oshnock said the Committee discussed several items: audit committee charter – the committee received comments

from the Department and will work through those and present the charter to the Board at the next meeting; FY 2004 financial statements and audit – the financial statements were completed and turned over to the independent auditors on June 6. The Department is expecting the Auditor's report within eight weeks; and the Committee received presentations from three professional groups: Myers and Stauffer worked on underpayments and overpayments and finalized that work over the last couple of weeks. This work resulted in financial statement balances that the Department signed off on internally; Mayer Hoffman McCann worked on the SAS 70 review – the control review that will be completed and a report issued on July 15. In that report they will sign off and address the controls of the ACS claim processing and payment system over the last nine months; BKR Metcalf Davis and Mauldin & Jenkins, a Joint Venture, are in the process of auditing FY 2004 financial statements. The 2004 sign off was discussed and the JV feels they are on target for that sign off. The JV also discussed the FY 2005 audit and expects the auditors' report for FY 2005 will be completed by the end of November 2005; and finally the Committee received an update from Myers and Stauffer on the Payment Error Rate Measurement (PERM) project. After addressing questions from the Board, Mr. Oshnock concluded his report.

Mr. Anderson called on Dr. Chris Stroud, Chairman of the Care Management Committee. Dr. Stroud asked Kim Gay to give the report and she stated that the CMO RFP final evaluations have been delayed for about one week.

Mr. Anderson opened the meeting for public comments. Public comments on Inpatient Hospital, Outpatient Hospital and Nursing Home and Pharmacy Reimbursement Rates were made by Bob Cross, Charlotte Vestal, Kevin Taylor, Jimmy Lewis, Steve Barber, Cal Calhoun, and Fred Watson.

Commissioner Burgess reminded the Board of one basic fact about the public notice recently commented on. This public notice represents budget reductions that were presented to the Board last September, approved by the Board, submitted to the Governor in September, and was a part of the Governor's recommendations submitted to the Legislature that went under intense debate and scrutiny. These are all much smaller reductions that were initially proposed by the Governor in January, finally approved by the Legislature and signed by the Governor in April. All of these dollar amounts are now part of the appropriated budget that the Governor has now signed and takes effect July 1.

Carie Summers, Chief Financial Officer, began discussion on how the Department makes outpatient hospital payments and how reimbursement methodology is set. The public notice before the Board is designed to pay interim rates with the assumption that the Department is paying 85.6% of cost. Ms. Summers addressed some concerns made during the public comment period: the use of old cost reports in order to estimate interim rates; the use of statewide average versus peer group average; and use of cost settlements. Ms. Summers said the Department is taking a look at changes in Outpatient Hospital Reimbursement methodology. After questions and comments from the Board, Ms. Covington MADE A MOTION to approve the Inpatient Hospital, Outpatient Hospital and Nursing Home and Pharmacy Reimbursement Rates Public Notice. Mr. Mason SECONDED THE MOTION. Mr. Anderson called for votes; votes were taken. The MOTION was UNANIMOUSLY APPROVED. (A copy of the Inpatient Hospital, Outpatient Hospital and Nursing Home and Pharmacy Reimbursement Rates Public Notice is hereto attached and made an official part of these Minutes as Attachment # 3).

Mr. Anderson opened the meeting for public comment on the Hospital Cost Settlement Calculations Public Notice. Those giving comments were: Bob Cross, David Tatum, Jesus Ruiz, Jimmy Lewis, Richard Stovall, Robert Taylor, Rhonda Perry, Cal Calhoun, Suzanne Heck and Tish Towns.

Mr. Anderson called on Carie Summers to give an overview of the Hospital Cost Settlement Calculations Public Notice. Ms. Summers gave the board a perspective of why the proposal was made and walked through some fundamentals of the cost settlement process. Ms. Summers gave a step-by-step review of how a cost settlement is done by cost center and the source of data used. Ms. Summers said the board has

heard from the hospitals and know what their concerns are; obviously the retroactive application drew great concern. She said the General Counsel and the Attorney General's office have looked at it and agree there are some issues there. The fiscal impact of hospitals is much larger than what the Department estimated. Because the Department had seen these impacts in isolated cases, the Department had no idea that this was a much larger issue than first thought. As a result, the Department is recommending that the Board table this item either until it has additional conversations with the hospitals or until the Department can come up with a new reimbursement methodology for the outpatient program. After Commissioner Burgess and Ms. Summers addressed questions and comments from the Board, Mr. Anderson called for a 10-minute recess.

Mr. Anderson called on Margie Preston, Director, Professional Services, Division of Medical Assistance Plans, to discuss the PeachCare Dental Benefit Structure Public Notice. Ms. Preston reported that the PeachCare Dental Benefit Structure process started about August 2004. In FY 05 and 06, the Department was charged with reducing the PeachCare dental benefits by $3.5 million and preserve the PeachCare program in some manner. DCH management, financial, budget and policy staff came together brainstormed and talked with dental providers on how this could be done. Other considerations were asking for additional premiums for dental or limiting benefits and would not be a comprehensive Medicaid look alike benefit plan. The goal of the Department was to provide a basic dental preventive plan with no premium and arrive at $3.5 million reduction. The Department reviewed the codes used in the Texas Plan and compared it with what Georgia Medicaid and PeachCare cover. The Department did not add back any codes already taken out or eliminated in the 2003 plan and came up with a workable plan to initiate further discussions. After meeting with the Georgia Dental Association and Georgia Dental Society they voiced that they did not want any changes, but if changes are needed, they provided codes that they felt could not be taken out. Of the eight codes presented, two had been eliminated by the CDT manual. This was submitted to the Legislature and the Legislature added back those six codes. The public notice contains the 45-50 codes that are mostly preventative. After Ms. Preston addressed questions from the Board, Mr. Anderson opened the meeting for public comment. Comments were given by Dr. Gordon Austin, Suzanne McGee, Phil Socoloff and Dr. Morris Socoloff.

Commissioner Burgess asked to comment about a couple of things heard so far. One, the Board heard mention of notices that were sent out in May. He said the Department is required to give at least 30 days notice for any kind of change like this and because this board meeting did not occur until June, in order to meet the public notice requirements, DCH was required to at least send out notifications prior to this that these potential changes had been approved by the Legislature and if approved by the board would go in effect July 1. Also, he commented about specific codes that may or may not have been left out of this proposal as dictated by the Legislature. He said the Legislature prepares a document called a program change report. That is their written document of instructions to Departments to follow as they prepare a budget. On page 42 of 186 in the FY 06 budget, it references the changes to the PeachCare health care plan. The budget that was passed by the Legislature cut $1.8 million out of the PeachCare plan in state funds. It references the fact that it is a model of the Texas Plan that the Governor proposed and specifically says "do not eliminate procedure codes D1203, 1510, 1351, 4341, 9230 and 9420." All of those codes that were specifically defined as to not to be eliminated by the Legislature were on the public notice and in the plan that DCH proposed. The Department feels it has followed the specific instructions of the Legislature to specifically include the codes they said not to eliminate. The difference is that those codes that are eliminated are required to make up that $1.8 or $6 million total reduction for the plan.

Mr. Anderson asked the Board to approve the PeachCare Dental Benefit Structure public notice provisionally. He asked Ms. Preston to go back to the Georgia Dental Association and some of the providers to find a different code combination to save the same amount of money. A discussion ensued. Commissioner Burgess said DCH would go back to the Georgia Dental Association and others to meet and go through a process of suggesting codes and having the DCH budget staff cost them out to see if this is a revenue neutral set of codes that are now being proposed. Mr.

Oshnock MADE a MOTION to approve the PeachCare Dental Benefit Structure Public Notice. Ms. Gay SECONDED THE MOTION. Mr. Anderson called for votes; votes were taken. The MOTION was UNANIMOUSLY APPROVED. (A copy of the PeachCare Dental Benefit Structure Public Notice is attached hereto and made an official part of the Minutes as Attachment # 4).

Mr. Anderson called on Rebecca Kellenberg, Director of the PeachCare for Kids program, to review the revised PeachCare premium payment policy that the Governor has approved and the Department is going to implement effective August 1, 2005. She gave an overview of the current policy—the three-month policy—that is in effect for premium payments, the budget circumstances during that period in which DCH decided on the three-month policy, the impact of that three-month policy and then described this August 1st policy that DCH will be moving to. Premiums will be due the first of the month prior to the month of coverage; however now the grace period is that premiums must be postmarked by the 15th of the month. DCH will set the eligibility run at a later date to make sure that all premiums postmarked by the 15th are counted in that eligibility run; however if that premium is not posted by the eligibility run, the member is cancelled and the member is ineligible for reinstatement for a period of one month. The DCH estimated budget of this policy change is $5.3 million state funds.

Commissioner Burgess stated that when the Session was over, the legislature had passed some changes to the PeachCare policies but have not funded those policies. That caused a lot of debate between DCH office and the Governor's Office and the Office of Planning and Budget for several weeks. The Governor wanted the Department to lessen the severity of the lockout policy that had been used last year, but do it in a way that was both responsible, kept our focus on trying to maintain the attitude and requirement that people pay their premiums and on time, but somehow mitigate the impact that it was having on the children that were locked out at that point. The Governor asked the Department to put together a recommendation that would meet all that and minimize the fiscal impact. Commissioner Burgess asked the Board to approve this change in policy as a recommendation back to the Governor. And at that point, if the Governor feels he can figure out a way to manage this financially in the fiscal plan as he prepares for FY 06 and 07, then hopefully the Department will get the go ahead from him before August 1 and actually be able to implement this policy August 1. Ms. Covington MADE a MOTION to approve the design of the new premium policy to take to the Governor's Office. Ms. Gay SECONDED THE MOTION. Mr. Anderson called for votes; votes were taken. The MOTION was UNANIMOUSLY APPROVED.

Mr. Anderson asked Neal Childers, General Counsel, to present the Emergency Rule for the State Health Benefit Plan. Mr. Childers stated that he had two proposed amendments to regulations that govern the State Health Benefit Plan for the Board's consideration. Mr. Childers said one of the changes that this agency and the Merit System made this year was a requirement for active employees to submit their enrollment for benefits options electronically rather than using paper based mechanisms. It was discovered that there are several payroll locations, or employers, who apparently did not fully grasp and understand that the electronic enrollment was the one and only way that the active employees could enroll. They did not communicate that to their employees, and those employees did not get to make an election of their benefits coverage options with the result that for active employees the additional premium costs for the tobacco use and for a spouse who did not elect coverage available from their own employer, will now automatically be assessed against these employees. What the proposed rule change does is grant the Commissioner a one-time authorization to give those employees who did not make an election because they were apparently not informed of the necessity of doing so electronically, another chance to make that election and have the proper premiums for the proper coverage options applied to them. The reason the Department is proposing that the Board authorize this to be an emergency regulation is because otherwise the SHBP will have deducted the higher premium level for several months, and under the IRS regulations, DCH is not authorized to make a refund because this is not an employer error, so by making an emergency regulation we will minimize the amount of extra premiums that anyone has to pay. Mr. Childers concluded his review after addressing questions from the Board. Ms. Covington MADE a MOTION to approve the rule change to be published for public comment. Ms. Gay SECONDED THE MOTION. Mr. Anderson called for votes; votes

were taken. The MOTION was UNANIMOUSLY APPROVED. Ms. Covington MADE a MOTION to approve the emergency rule change. Ms. Gay SECONDED THE MOTION. Mr. Anderson called for votes; votes were taken. The MOTION was UNANIMOUSLY APPROVED. (A copy of the Emergency Rule for the State Health Benefit Plan is attached hereto and made an official part of the Minutes as Attachment # 5).

Mr. Anderson asked Carie Summers to present the Upper Payment Limit Payments Public Notice. She gave an overview of what is going on with the Department's UPL program. She reported that the Department had been under negotiation with CMS and had come to an agreement with CMS about our UPL program for the inpatient hospital program as well as the nursing home program. The Department is in negotiations with CMS still about the outpatient side and are hopeful that the outpatient claiming will exceed our outpatient claiming from last year. The IGT for next year's program will be limited to only the non-federal share. The UPL calculation will continue to be based on Medicare payment principles as allowed by CMS.

Ms. Summers said the other thing we expect to happen next year is CMS has been talking about further defining or clarifying their regulations related to what is a governmental entity. The States programs with the exception of Critical Access Hospitals participating have been limited to public governmental non-state facilities. That means private facilities basically have not been able to participate and that would be the proposal for next year as well. Federal regulations prohibits the Department from making a UPL payment on any payment that is through a capitation arrangement so for FY 07, for the first round of CMOs, those hospitals that are impacted might see a reduction in their UPL payments simply because federal regulations do not allow us to make a UPL payment on that.

Ms. Summers said the Upper Payment Limit Payments Public Notice is required. The Department is about to submit a State Plan Amendment (SPD) to CMS as part of the negotiations that we have had with them. CMS is primarily not asking the Department to change its methodology; what they are wanting is a formalized mechanism to communicate that the financing is going to change in terms of the IGTs, that in the event that IGTs are used, which is what DCH is proposing, that they will be limited to the non-federal share only. It also says that in calculating UPLs we will do so based on Medicare payment principles. The Department has indicated that it thinks this notice is actually budget neutral and is being done to begin compliance with its agreement with CMS. Ms. Summers said at this point DCH is asking the board to approve the public notice and expect public comment between now and the next board meeting when the board will be asked to vote on it. Mr. Mason MADE a MOTION TO approve the Upper Payment Limit Payments Public Notice to be published for public comment. Ms. Covington SECONDED the MOTION. Mr. Anderson called for votes; votes were taken. The Motion was UNANIMOUSLY APPROVED. (A copy of the Upper Payment Limit Payments Public Notice is attached hereto and made an official part of the Minutes as Attachment # 6).

Finally, Mr. Anderson said the board discussed last month moving the Board meeting to a noon starting time. He read the amendment to the bylaws. Mr. Mason MADE a MOTION TO APPROVE changes to the bylaws to move the board meeting starting time to 12:00 p.m. Ms. Covington Seconded the Motion. Mr. Anderson called for votes; votes were taken. The Motion was unanimously approved.

There being no further business to be brought before the Board at the meeting Mr. Anderson adjourned the meeting at 3:45 p.m.

THESE MINUTES ARE HEREBY APPROVED AND ADOPTED THIS

THE _____ DAY OF _____, 2005.

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MR. JEFF ANDERSON
Chairman

ATTEST TO:

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CHRISTOPHER BYRON STROUD, M.D.
Secretary

Official Attachments:

#1 - List of Attendees
#2 – Agenda
#3 - Inpatient Hospital and Outpatient Hospital, Nursing Home and Pharmacy Reimbursement Rates Public Notice
#4 - PeachCare Dental Benefit Structure Public Notice
#5 - Emergency Rule for the State Health Benefit Plan
#6 - Upper Payment Limit Payments Public Notice